

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
(Milwaukee)

U.S. DISTRICT COURT
EASTERN DISTRICT-WI
FILED

2019 NOV 14 P 12:49

STEPHEN C. DRIES
CLERK

Nehemias Huertas, JR.,

Plaintiff,

AMENDED
COMPLAINT

V.

Case No: 2:19-cv-00592-TJ-PP

Michael Hafemann, CO Waite, CO Morton, CO Murray,
ARMOR Health care, Well Path, Dr. Karen Horton,
Dr. Laura Sukowaty, Dr. Jackie Christanson, Dr. Shelly Johnson,
Dr. Jennifer Sabatier, Charles Dombeck, Nurse Holly, Nurse Sheryl,
Nurse Mud, Nurse Scott, Nurse Jane Doe 1,
Nurse Jane Doe 2, Nurse Jane Doe 3, Nurse Jane Doe 4,
Nurse Jane Doe 5, Nurse Jane Doe 6, Nurse Jane Doe 7,
Milwaukee County.

Defendants.

I. Jurisdiction & Venue

1). Nehemias (Huertas) Jr, appears in this action pro se,
pursuant to 42 U.S.C. Sec. 1983 This court has
Jurisdiction under 28 U.S.C. Sec. 1331 and 1343(a)(3).

Eastern District of Wisconsin is an appropriate
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Venue under 28 U.S.C. sec. 1391(b) because it is where the events giving rise to this claim occurred.

II. Plaintiff

3) The plaintiff Nehemias Huertas Jr., is and was at all times relevant to this complaint a pre trial detainee at the Milwaukee County House of Correction and Milwaukee County Jail Facility.

III. Defendants

4). The defendant Michael Hafemann is and was at all times relevant to this complaint the Super Intendant of the Milwaukee County House of Correction (HOC). He is responsible for the operation of the HOC and for the welfare of all inmates in that Jail.

5). Defendant Co Waite is and was at all times relevant to this complaint a correctional officer at the Milwaukee County House of Correction.

6). Defendant Co Morton is and was at all times relevant to this complaint a correctional officer at the Milwaukee County House of Correction.

7). Defendant Co Murray is and was at all times relevant to this complaint a correctional officer at the

Milwaukee County House OF Correction

- 8). Defendant Armor Health Care is and was at all times relevant to this complaint the sole Health Service Company contracted to the Milwaukee County House of Correction that lead up to 03-31-2019.
- 9). Defendant Well Path is and was at all times relevant to this complaint the sole Health Service Company contracted to the Milwaukee County House of Correction and Milwaukee County Jail Facility.
- 10). Defendant Dr. Karen Horton is and was at all times relevant to this complaint the Medical Director OF Armor Health Care.
- 11). Defendant Dr. Laura Sukowaty is and was at all times relevant to this complaint the Medical Director of Well Path Health Care.
- 12). Defendant Dr. Shelly Johnson is and was at all times relevant to this complaint, a Doctor from Armor Health Care (For the Milw. Co. HOC).
- 13). Defendant Dr. Jackie Christanson is and was at all times relevant to this complaint, a Doctor from Armor

Health Care (for the Milw. Co. HOC).

14). Defendant Dr. Jennifer Sabatier is and was at all times relevant to this complaint, a Doctor From Well Path (for the Milw. Co. HOC).

15). Defendant Charles Dombek is and was at all times relevant to this complaint, a Nurse Practitioner From Armor Healthcare & Well Path (for the Milw. Co. HOC).

16). Defendant Nurse Holly is and was at all times relevant to this complaint, a nurse From Armor Healthcare & Well Path (for the Milw. Co. HOC).

17). Defendant Nurse Sheryl is and was at all times relevant to this complaint, a nurse From Armor Healthcare & Well Path (for the Milw. Co. HOC).

18). Defendant Nurse Myd is and was at all times relevant to this complaint, a nurse From Armor Healthcare & Well Path (for the Milw. Co. HOC).

19). Defendant Nurse Scott is and was at all times relevant to this complaint, a nurse From Well Path (for the Milw. Co. HOC).

20). Defendant Nurse Jane Doe 1 is and was at all times relevant to this complaint, a nurse from Well Path (for the Milw. Co. Jail Facility).

21). Defendant Nurse Jane Doe 2 is and was at all times relevant to this complaint, a nurse from Well Path (for the Milw. Co. Jail Facility).

22). Defendant Nurse Jane Doe 3 is and was at all times relevant to this complaint, a nurse from Well Path (for the Milw. Co. Jail Facility).

23). Defendant Nurse Jane Doe 4 is and was at all times relevant to this complaint, a nurse from Well Path (for the Milw. Co. Jail Facility).

24). Defendant Nurse Jane Doe 5 is and was at all times relevant to this complaint, a nurse from Well Path (for the Milw. Co. Jail Facility).

25). Defendant Nurse Jane Doe 6 is and was at all times relevant to this complaint, a nurse from Well Path (for the Milw. Co. Jail Facility).

26). Defendant Nurse Jane Doe 7 is and was at all times relevant to this complaint, a nurse from Well Path (for the Milw. Co. Jail Facility). PAGE 5 OF 23

27). Defendant Milwaukee County is and was at all times relevant to this complaint.

28). All the above named defendants are being sued in their official and individual capacities.

IV. Exhaustion of Administrative Remedies

29). Huertas exhausted his administrative remedies pursuant to WIS. Adm. Code Sec. 310.05 by Filing Multiple inmate grievances (Form 1299-1 & Form 25951 Hoc, Kiosk), both complaining and appealing of staff adverse actions.

V. Facts

30). On 02-14-2019 Plaintiff Nehemias Huertas Jr. had an enlarge burst (L-Elbow) which suddenly rupture in the Milwaukee County Jail Facility (Pod 5A day room).

31). On or about 02-18-2019 at the county Jail facility Clinic a culture was obtain by Health staff, and a blood sample which results came back negative for infection to Mr. Huertas L-Elbow (open wound).

32). On or about 02-24-2019 inmate Huertas was transferred to the House of Correction (HOC) in Franklin, WISCONSIN.

33). On or about 03-05-2019 Mr. Huertas was housed in the HOC dorm M6. Inmate Huertas required immediate Medical attention as he reported the Medical incident to CO Waite multiple times. CO Waite is an officer at the HOC. CO Waite with deliberate indifference failed to call the HOC health services unit. Instead of taking Mr. Huertas to the Health Center, Mr. Huertas was escorted to the gymnasium. Mr. Huertas was forced to wait in the gymnasium for four hours in excruciating pain with a dirty and wet, loose bandage and open wound left unattended, exposed to infection.

34). Numerous times inmate Huertas continuously asked CO Waite to call the Health Center but CO Waite refused to seek Medical attention for inmate Huertas serious Medical need.

35). On or about 03-10-2019 approximately at 10:54 am inmate Huertas asked CO Boescher to be seen by medical staff and escorted

to the Health Center for Wound Care to Mr. Huertas L. Elbow, the wound was draining fluid and causing pain. HOC & Health staff were contacted by CO Boescher numerous times but HOC & Health staff through deliberate indifference ignored the problem for three hours. Mr. Huertas wasn't escorted to the health center until 1:30 PM

36). On or about 03-11-2019 Mr. Huertas had an appointment with the Orthopaedic Dr. Mark Hodgson, where he learned that at that point Mr. Huertas had a Septic L. Elbow, which he did not have before 03-05-2019.

37). On 03-20-2019 Mr. Huertas had surgical procedure to Septic L. Elbow performed by Dr. Mark Hodgson at the orthopaedic Hospital of Wisconsin. About an hour after surgery Mr. Huertas was transferred back to the HOC with a paper script for pain medication ordered by Dr. Hodgson. On 03-20-2019 back at the HOC Health Center Nurse Tammy interfered with treatment prescribed, and informed Mr. Huertas she is "not giving Huertas such pain medication" because "it is against the law for the Armor Health Care to provide opioids to an inmate". Mr. Huertas stated he was "in a lot of pain" as he "just got off surgery

Couple hours prior to being escorted to the HOC's Health Center and that the Orthopaedic Surgeon prescribed an order of Pain Medication. Mr. Huertas was also made aware of his allergies to Tylenol which "Norco" contains. Nevertheless, the Health Center refused to provide or prescribe and consider an effective substitute or anything at all

38). On 03/21/2019, Mr. Huertas was transported to the Orthopaedic Hospital for a follow up appointment with the Surgeon Dr. Mark Hodgson. Mr. Huertas notified Dr. Hodgson, the HOC's Health Center wouldn't provide "Norco" because he made an error and prescribed a Medication that contains Tylenol which Huertas is allergic to, and asked if Dr. Hodgson can prescribe a different medication but, Dr. Hodgson stated "Sorry I can't it's out of my hands."

Mr. Huertas was then transported back to the HOC, where he seen Dr. Jackie Christanson for a routine follow up. During this follow up appointment Mr. Huertas, notified Dr. Christanson about the existence of his excruciating pain. Mr. Huertas was obviously in severe pain, pleading for pain medication, Dr. Christanson stated: "Sorry I'm not providing Norco besides it's not appropriate, Norco has Tylenol and you're allergic." Dr. Christanson refuse to treat Huertas serious pain to his significant injury. Mr. Huertas remained enduring severe pain and suffering. Nonetheless, Dr. Christanson refused to provide available treatment, with respect to Mr. Huertas severity and stage of his condition.

39). On 03-26-2019 Mr. Huertas Was seen by Dr. Shelly Johnson for a sick call regarding Mr. Huertas serious pain to his L. Elbow and back pain etc.. Dr. Johnson referred Huertas to Physical therapy and refused to provide and consider an effective substitute medication instead she provided Tramadol, an ineffective medication for Huertas, significant injury & serious pain. Furthermore, during the numerous visits to the health center on a daily Mr. Huertas even complained to all the nurses who perform his dressing changes during wound care to no avail, and suffer greatly post-surgery complications through his entire recovery.

40). On or about 04-02-2019 around 12:30pm Mr. Huertas complained to nurse Sheryl that he was "having complications swallowing his Food" and that he "felt itchy all over his body". Nurse Sheryl then asked Mr. Huertas what is he "taking for Meds?" Mr. Huertas replied: "I guess some new medication, Ty3". Nurse Sheryl stated: "That'll be Tylenol 3". Mr. Huertas stated: "What! I'm allergic to Tylenol, no wonder, I'm having allergic reactions!" Nurse Sheryl stated: "Whoever put you on that messed up! But don't say you heard it from me!" Mr. Huertas later reviewed his medical record and learned that Nurse Sheryl ordered Tylenol 3 and Dr. Laura Sukowaty approved it.

41). On 04-08-2019 Mr. Huertas was seen by Nurse Practitioner

Charles Dombek for a follow up. Mr. Huertas notified Charles about the existence of his chronic pain since surgery and how Dr. Christanson refuse to prescribe anything for his pain and Dr. Johnson prescribed Tramadol but Tramadol has been ineffective. Mr. Huertas also notified Charles how the Health center has been very unfair in treating Mr. Huertas pain with ineffective treatment, because he was prescribed pain medication but the medication contains Tylenol which Mr. Huertas is allergic to. Charles simply stated: "I'm not prescribing Pain Killers!"

42). On Saturday 04-13-2019 approximately at 6:30AM inmate Huertas requested to be escorted to the Health Center as Mr. Huertas had an obvious open bleeding wound that required immediate medical attention. CO Miguel contacted the Health center numerous times and notified the Health center Mr. Huertas need it to be seen immediately for wound care as his bandage was damped in blood and fluid. Health center staff thru deliberate indifference ignored the urgency of this issue. This lead to creating a life threatening situation for Mr. Huertas because the wound was bleeding profusely. Mr. Huertas was in **excruciating** pain for over seven hours. Mr. Huertas was seen at 1:15PM. Huertas asked the Health Center CO (Serrano)

"Why did it take so long for Huertas to be escorted to the Health Center?" CO Serrano stated: "They don't want to work", referring specifically to Nurse Holly. The lack of Medical treatment was inhumane and unnecessary.

43). On or about 04-17-2019 during a sick call/Follow up regarding Mr. Huertas back pain & elbow pain etc. Mr. Huertas informed Dr. Jennifer Sabatier about the serious pain he experience on a daily to his L. Elbow. Mr. Huertas also notified Dr. Sabatier that he supposed to be on pain killers, Dr. Sabatier stated: she is "not providing pain killers" to Mr. Huertas.

44). On 04-18-2019 Mr. Huertas was seen by Charles Dembeck for a follow up due to the continuous serious pain, swelling and drainage. Once again Mr. Huertas was prescribed ineffective treatment (Naproxen), and referred to orthopedic Surgeon for follow up to no avail as Dr. Mark Hodgson erroneous treatment decision also has lead Mr. Huertas to suffer greatly post-surgery complications, and excessive suffering.

45). On 04-29-2019 around 9pm CO Gilbert called the Health Center for Mr. Huertas to be seen as

Huertas was tearing, in **excruciating** pain with his bandage obviously bloody, in the HOC M6 dorm at the CO's desk. CO Gilbert Stated: that Nurse Scott & Nurse Mud both refuse to see Huertas! CO Murray was present at the desk at this moment and laughs very loud as she stated: "That's why you're going to be in pain!" Recklessly disregarding inmate Huertas serious Medical Need.

46). On 05-03-2019 Milwaukee County Jail Facility (CJF) Well Path Nurse Jane Doe 1 Failed to perform prescribed dressing changes to inmate Huertas L. Elbow, in the Morning.

47). On 05-07-2019 CJF Well Path Nurse Jane Doe 2 Failed to perform prescribed dressing changes to Mr. Huertas L. Elbow, (AM & PM).

48). On 05-18-2019 CJF Well Path Nurse Jane Doe 3 Failed to perform prescribed dressing changes to Mr. Huertas L. Elbow, (AM & PM).

49). On 05-20-2019 CJF Well Path Nurse Jane Doe 4 Failed to perform prescribed dressing changes to Mr. Huertas L. Elbow, (AM & PM).

50). On 05-21-2019 CJF Well Path Nurse Jane Doe 5 Failed to perform prescribed dressing changes to Mr. Huertas L Elbow, (AM & PM).

51). On 05-22-2019 CJF Well Path Nurse Jane Doe 6 Failed to perform prescribed dressing changes to Mr. Huertas L. Elbow, (AM & PM).

52). On 05-27-2019 CJF Well Path Nurse Jane Doe 7 failed to perform prescribed dressing changes to Mr. Huertas L-Elbow, (AM & PM).

VI. Cause Of Action

53). Huertas was subjected to a violation of his ~~Fifth~~ Amendment, Eight Amendment and the Equal Protection clause of the Fourteenth Amendment Rights to the U.S. CONST.

Huertas realleges and incorporate paragraphs 30 thru 52 as though they were stated fully herein.

VII. Denial of Adequate Medical Care

54). Huertas was subjected to denial of or delay in access to Medical personnel and inadequate Medical

Care in violation of Mr. Huertas **Fifth**, Eighth and Fourteenth Amendment Rights to the U.S. CONST. Huertas incorporate paragraphs 30 thru 52 as though they were stated fully herein.

Defendant CO Waite violated Huertas rights by denial of or delay in access to medical care. CO Waite was acting ~~within~~ the scope of his employment and knew from his observation of conditions that the detainee was in need of immediate medical care and through willful and wanton conduct failed to take reasonable action to summon medical care. CO Waite knew of a substantial risk from the very fact that the risk was obvious and disregarded. This created a life threatening situation for Mr. Huertas as he was infected by a deadly bacteria which lead the detainee into a painful surgery of excessive suffering for leaving an open wound unattended exposed to infection. Huertas suffer greatly physically, emotionally and mentally. Defendants CO Morton, CO Murray, Dr. Karen Horton, Dr. Laura Sukowaty, Dr. Shelly Johnson, Dr. Jennifer Sabatier, (NP) Charles Dombek, Dr. Jackie Christanson, Nurses: Holly, Sheryl, Mud, Scott, Jane Doe 1, Jane Doe 2, Jane Doe 3, Jane Doe 4, Jane Doe 5, Jane Doe 6 and Jane Doe 7, also violated Mr. Huertas rights due to the denial of or delay in access to medical care and/or adequate medical care, which resulted to Huertas enduring chronic pain and excessive suffering.

VIII. Deliberate Indifference

55). The deliberate indifference to Medical needs violated Mr. Huertas rights and constituted, cruel and unusual punishment and a due process violation under the **Fifth**, Eight and Fourteenth Amendment to the U.S. CONST. Huertas realleges and incorporate paragraphs 30 thru 52 as though they were stated fully herein. Defendants CO Waite, CO Morton, CO Murray, Dr. Laura Sukowaty, Dr. Jackie Christanson, Dr. Jennifer Sabatier, (NP) Charles Dombek, Nurses: Holly, Sheryl, Mud, Scott, Jane Doe 1, Jane Doe 2, Jane Doe 3, Jane Doe 4, Jane Doe 5, Jane Doe 6, and Jane Doe 7 all the above mentioned individuals herein violated Huertas rights by being deliberately indifferent to Mr. Huertas need to receive adequate Medical treatment, amounting to unnecessary and wanton infliction of pain by intentionally denying or delaying access to Medical care and also persisted in ineffective treatment for a condition that is painful. Medical personnel simply resorted to an easier course of treatment that they knew is less efficacious. Furthermore, officials knew of a substantial risk from the very fact that the risk was obvious and disregarded Huertas existence of chronic, substantial pain, and risk of infection. Denial of Medical care by nurses and officers failure to carry out Medical orders prescribed by the Orthopedic doctor resulted to chronic pain and excessive suffering.

IX. Intentional Tort

56). Huertas was subjected to intentional tort a violation of his Fifth, Eight and Fourteenth Amendment to the U.S. CONST.

Huertas realleges and incorporate paragraphs 30 thru 52 as though they were stated fully herein.

Defendants CoWaite, CoMorton, CoMurray, Dr. Karen Horton, Dr. Laura Sukowaty, Dr. Jackie Christanson, Dr. Shelly Johnson, Dr. Jennifer Sabatier, (Np) Charles Dombek, Nurses: Holly, Scott, Mud, Sheryl, Jane Doe 1, Jane Doe 2, Jane Doe 3, Jane Doe 4, Jane Doe 5, Jane Doe 6 and Jane Doe 7 all the above mentioned individuals herein violated Huertas rights depriving Mr. Huertas of his right to due process by Subjecting Mr. Huertas to excessive suffering and the intentional infliction of emotional and mental distress, disregarding Mr. Huertas serious medical need and severe pain before and after surgery.

X. Cruel and unusual Punishment

57). Huertas was subjected to cruel and unusual punishment in violation of his Fifth, Eighth and Fourteenth Amendment Rights to the U.S. CONST. Huertas realleges and incorporate paragraphs 30 thru 52 as though they were stated fully herein. Defendants CO Waite, CO Morton, CO Murray, Dr. Karen Horton (Medical director), Dr. Laura Sukowaty (Medical director), Dr. Jackie Christanson, Dr. Jennifer Sabatier, (NP) Charles Dombek, Nurses: Holly, Sheryl, Scott, Mud, Jane Doe 1, Jane Doe 2, Jane Doe 3, Jane Doe 4, Jane Doe 5, Jane Doe 6, and Jane Doe 7, all the above mentioned individuals herein, violated Huertas rights by depriving Mr. Huertas of adequate Medical care and denying of or delay in access to medical personnel, nurses failure to perform prescribed dressing changes and doctors Failing to carry out medical orders prescribed by outside doctor/hospital & not followed in which also inflicted emotional and mental distress due to fear of limb or life.

XI. Failure To Protect

58). Huertas was subjected to a violation of his Fifth, Eighth and Fourteenth Amendment Rights to the U.S. CONST. when Jail officials and/or health staff failed to protect Huertas as Huertas ability to protect himself and seek outside aid was taken away when Huertas was taken into custody (02-08-2019).

therefore, since 02-14-2019 Jail officials and/or Health staff knew that Huertas was facing a serious risk of substantial harm and failed to take action to protect Huertas against the harm he suffered. Huertas incorporate paragraphs 30 thru 52 as though they were stated fully herein. Defendants Michael Hafemann, CO Waite, CO Morton and CO Murray as well as Armor Healthcare (MD) Dr. Karen Horton and Well Path Care (MD) Dr. Laura Sukowaty (who Attorney Andrew Golden attempted to reach by phone, to no avail), all of the above mentioned individuals failed to take action to protect Mr. Huertas against a serious risk of substantial harm.

59). Huertas has no plain, adequate or complete remedy at law to redress the wrongs described herein. Huertas has been and will continue to be irreparably injured by the conduct of the defendants unless this court grants relief which Plaintiff seeks.

XI. Prayer of Relief

60). Wherefore, Mr. Huertas respectfully prays that this court enter judgement granting;

61). Admission of responsibility, Huertas demands that each

defendant publicly admit and publish in every WISCONSIN newspaper every day for (30) days a full page advertisement of no less than 100 words. Defendant has approval over wording advertisement.

(62) The STATE OF WISCONSIN or Federal authority that oversees health care is to review and correct deficient health care procedures and policies for inmates.

(63). All inmates health care complaints are to be published in WISCONSIN news papers for seven days. Complaints are to be published anonymously as inmate 1, inmate 2 etc..

(64). Installation of Federal health care hot line available to inmates 24/7 for reporting health care deficiencies.

(65). Inmates access to free 9-1-1 calls for reporting medical emergencies.

(66). Replacement of current useless pink & white health care request forms. New forms are to comply with state prison health care forms (DOC).

(67). Replacement of the entire grievance system with an independent tribunal legal counsel.

Tribunal Members are to have authorities to correct any grievance and cannot be countermanded by HOC & CJF Staff.

68). Elimination of the grievance "Kiosk" System. All grievances are to provide the Author With a Free Carbon Copy.

69). Grievances Must be answered within 10 consecutive days and finalized within (30) days. If not solve within (30) days complainant to receive no less than \$5,000 after taxes.

70). Any person medically claiming need for a double Mattress shall be granted same. HOC & CJF Staff have no authority in this medical issue.

71). At the HOC & CJF all inmates are allowed to have a pillow.

72). HOC & CJF Staff are to respect federal HIPPA Laws and have no authorities in Medical Matters.

73). Restoration of Full ink pens and pencils with erasers and crank type pencil sharpener.

74). Installation of a quantity of law library computers to meet 10% of the Maximum CJF Population at the CJF.

75). Installation of a quantity of law library computers to meet 10% of the Maximum HOC Population at the HOC.

76). Law library computers at the HOC & CJF are to have word processing and printing capability without restrictions including internet access.

77). Demand that a U.S.P.S. Agent be on the grounds of the HOC & CJF available (5) days a week for no less than (6) hours a day. Directly accessible to inmates.

78). Access to U.S.P.S. Certified Mail, FedEx & UPS and a postal certified scale.

79). Quarantining of sick and injured inmates in HSN Dorm is to be restarted at the HOC.

80). A Jury trial on all issues triable by Jury.

81). Order defendants, supervisors to pay Mr. Huertas compensatory damages in the amount of \$3,000,000

against each defendant, jointly and severally.

82). Order defendants, Supervisors to pay Mr. Huertas Punitive damages in the amount of \$2,000,000 against each defendant.

83). Order defendants to pay all reasonable court Fees, Plaintiff's cost in this Suit, attorney Fees; and grant any additional relief this honorable court deems just, proper and equitable.

VERIFICATION

I have read the foregoing complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under penalty of perjury and under the laws of the USA that the foregoing is true and correct pursuant to 28 U.S.C. Sec 1746

Executed at Milwaukee, WISCONSIN
ON 11/05/2019

Nehemias Huertas Jr. Booking NO. 2019003347
Nehemias Huertas Jr. #343598, DOB [REDACTED] 1/87
Milw. CO. Jail, 949 N. 9th St., Milw. WI 53233